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5 Attorneys for Plaintiff  
EMILEE CASS

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 EMILEE CASS, } No. C-07-03549 JW  
12 Plaintiff, }  
13 vs. } **NOTICE OF MOTION AND MOTION**  
14 STARBUCKS CORPORATION a } **TO WITHDRAW AS COUNSEL FOR**  
Washington corporation, and DOES 1 } **PLAINTIFF EMILEE CASS**  
to 50, }  
15 Defendants. } (Civil L.R. 11-5)  
16 } Date: May 5, 2008  
17 } Time: 9:00 a.m.  
Courtroom: }  
Judge James Ware

18 TO DEFENDANT STARBUCKS CORPORATION AND ITS ATTORNEYS OF  
19 RECORD HEREIN:

1 Hinkle, Jachimowicz, Pointer & Emanuel (HJP&E), counsel for Plaintiff  
2 EMILEE CASS (Cass) hereby moves, pursuant to Civil Local Rule 11-5, for an  
3 order relieving it as counsel for Cass.

4 **I. MEMORANDUM OF POINTS AND AUTHORITIES**

5 Good cause exists for this application as Cass has repeatedly failed to  
6 maintain regular communications with HJP&E, and as a result HJP&E has  
7 been unable to prepare adequately for her case or to provide timely and  
8 adequate responses as required in this case. Previous court decisions have  
9 held that lack of cooperation by a client with its counsel, including lack of  
10 communication, is a sufficient reason for allowing withdrawal. See *Fischer v.*  
11 *Biman Bangladesh Airlines*, 1997 U.S. Dist. LEXIS 10405 (D.N.Y. 1997)

12 Every attempt has been made to resume communications with Cass.  
13 Counsel has hired an investigator to do a skip trace of her and has been  
14 unable to locate her. Each letter sent to her either by certified mail or regular  
15 mail has come back as undeliverable. Counsel is unaware of any email  
16 addresses for Cass.

17 Cass' last known address was 1260 N. Bascom Avenue, apartment 5,  
18 San Jose, CA 95128. Her last known phone numbers are (408) 260-2429 and  
19 (408) 828-1474.

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The declaration of Amy Carlson in support of this motion and the proposed order granting HJP&E's withdrawal as counsel are submitted herewith.

## **II. CONCLUSION**

For the reasons stated above, HJP&E respectfully requests that the Court grant its motion to withdraw as counsel for Plaintiff, Emilee Cass effective on \_\_\_\_\_.

Dated: March 19, 2008 HINKLE, JACHIMOWICZ, POINTER & EMANUEL

AMY CARLSON  
Attorney for Plaintiff  
EMILEE CASS

1                   **DECLARATION OF AMY CARLSON**

2 I, Amy Carlson, declare as follows:

- 3       1. I am an associate at Hinkle, Jachimowicz, Pointer & Emanuel,  
4                   counsel of record for Plaintiff, Emilee Cass in this action.
- 5       2. I have been the attorney in my law firm with primary responsibility  
6                   for all matters concerning Emilee Cass (“Cass”). My primary  
7                   method of communication with Cass has been via regular mail or  
8                   phone.
- 9       3. Cass has not been in contact with me in several months. Her  
10                  phone numbers are no longer in service and mail to her last known  
11                  address either by certified mail or regular mail are returned as  
12                  undeliverable. Attached as Exhibit “A” is a true and correct copy of  
13                  the envelopes I have received from the mail carrier.
- 14       4. I have hired an investigator to locate Cass and he has not had any  
15                  luck in finding her either.
- 16       5. Defense counsel has served discovery on Cass. Without her  
17                  information and cooperation, we are unable to respond to the  
18                  discovery responses putting us at risk of being sanctioned for  
19                  failure to comply with the discovery rules.

1 I declare under penalty of perjury under the laws of the State of  
2 California that the foregoing is true and correct, this \_\_\_\_ Day of March 2008, at  
3 San Jose, California.

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6 AMY CARLSON  
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